

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MANUEL DEJESUS RODRIGUEZ, :
Plaintiff, :
-v- : 22-CV-1924 (JMF)
85 MCCLELLAN STREET OWNERS INC. et al., :
Defendants. :
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85 MCCLELLAN STREET OWNERS INC. et al, :
Third-Party Plaintiffs, :
-v- :
85 MCCLELLAN LLC et al., :
Third-Party Defendants. :
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JESSE M. FURMAN, United States District Judge:

On October 3, 2022, Defendant/Third-Party Defendant BRX McClellan Apartments LLC filed a motion to dismiss the complaint and the third-party complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Given that the additional Defendants/Third-Party Defendants have until October 17, 2022, to file motions to dismiss, *see* ECF No. 35, it is hereby ORDERED that Plaintiff and Third-Party Plaintiffs shall file any amended complaint/third-party complaint by **October 31, 2022**. Pursuant to Paragraph 1.B. of the Court's Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>, any amended complaint/third-party complaint should be filed with a redline showing all differences between the original and revised filing. Plaintiff and Third-Party Plaintiffs will not be given any further opportunity to amend their complaints to address issues raised by any filed motions to dismiss.

If Plaintiff and Third-Party Plaintiffs do amend, by three (3) weeks after the amended complaint and/or amended third-party complaint is filed, each Defendant and/or Third-Party Defendant shall: (1) file an answer; (2) file a new motion to dismiss; or, if applicable, (3) file a letter on ECF stating that it relies on its previously filed motion to dismiss. If any Defendant and/or Third-Party Defendant files an answer or a new motion to dismiss, the Court will deny its

previously filed motion to dismiss as moot. If any Defendant and/or Third-Party Defendant files a new motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition.

If no amended complaint and/or amended third-party complaint is filed, Plaintiff shall file a consolidated opposition to all motions to dismiss by **October 31, 2022**. Third-Party Plaintiffs shall do the same. Defendants' and/or Third-Party Defendants' replies, if any, shall be filed by **November 7, 2022**.

SO ORDERED.

Dated: October 4, 2022
New York, New York



JESSE M. FURMAN
United States District Judge